

## **Remarks**

This Response is considered fully responsive to the Office Action mailed October 16, 2007. Claims 1-29 were pending in the application. Claims 1-29 stand rejected. No claims have been amended or added. No new matter has been added. Claims 1-29 are now pending in the application. Reexamination and reconsideration are requested.

## **Rejections Under 35 U.S.C. § 103**

Claims 1-19 and 21-29 stand rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable to Brebner in view of U.S. Patent No. 6,151,643 to Cheng, et al. (“Cheng”). All rejections are respectfully traversed.

With respect to independent claim 1, the Office alleges that Brebner teaches “requesting a service from the remote service distribution system, wherein definitions of the hardware resources and software resources of the local device from the data structure are transmitted to the remote service distribution system as part of the service request.” The Office, however, acknowledges that Brebner does not teach that the service includes transmission of software to the local device, as recited in independent claim 1. This is not surprising, as Brebner relates to providing recommendations for hardware upgrades that will improve the performance of the computer, based on the user’s use of existing software installed on the computer, and provides no provisions for downloading software. Instead, Brebner teaches that a business proposal may be generated to sell the proposed hardware accessories to the user.

The Office alleges that Cheng teaches that the service includes transmission of software to the local device, and cites Cheng at col.3, lines 40-45 in support of this position. Further, the Office contends that it would have been obvious to combine the teachings of Brebner with the teachings of Cheng “in order to provide users with an easier way to identify which updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates” (citing Cheng at col. 2, lines 18-21). However, Applicants respectfully disagree with these contentions.

Cheng is directed to the automatic updating of diverse software products on multiple client computer systems by downloading a scanning application to the client computer and generating a list of software on the client computer. Cheng at Abstract. However, according to the teachings of Cheng, the scanning application automatically downloads portions of an update

database, so that the scanning application can determine which installed software products have available updates without transmitting any information from the client computer. Cheng at col. 3, lines 25-39. A user then selects the desired updates and, using the location specified by the update database, the client computer can download the updates directly. Cheng at col. 3, lines 40-45.

Applicants respectfully submit, however, that Cheng explicitly teaches away from sending information, such as definitions of hardware resources and software resources of a local device, to a remote system. Cheng at col. 2, lines 24-60. “A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). In view of the teachings of Cheng, Applicants respectfully submit that there is no proper motivation to combine the Cheng reference with Brebner. Thus, Cheng fails to cure the deficiencies of Brebner acknowledged by the Office.

Accordingly, without conceding the propriety of the combination, Applicants respectfully submit that the combination of Brebner and Cheng fails to teach all of the features of independent claim 1 and those claims depending directly or indirectly therefrom. Reconsideration of the rejection and allowance of independent claim 1 and those claims depending directly or indirectly therefrom are respectfully requested.

With respect to independent claim 8, Cheng is relied upon to teach at least one service available to the remote device. However, as discussed above, Cheng explicitly teaches away from transmitting information regarding a client device to a remote location. As a result, the teachings of Brebner and Cheng cannot be properly combined, and Cheng fails to remedy the deficiencies of Brebner acknowledged by the Office.

Accordingly, without conceding the propriety of the combination, Applicants respectfully submit that the combination of Brebner and Cheng fails to teach all of the features of independent claim 8 and those claims depending directly or indirectly therefrom. Reconsideration of the rejection and allowance of independent claim 8 and those claims depending directly or indirectly therefrom are respectfully requested.

With respect to independent claim 18, the Office acknowledges that Brebner fails to teach displaying a list of available services that are compatible the hardware resources on the remote device, and relies upon Cheng at col. 14, line 66 to col. 15, lines 1-4 to cure this

deficiency. However, Cheng merely discloses the display of a list of available **software** updates. Cheng is silent regarding the consideration of hardware in determining the compatibility of updates.

Further, as discussed above, Cheng explicitly teaches away from transmitting information regarding a client device to a remote location. As a result, the teachings of Brebner and Cheng cannot be properly combined, and Cheng fails to remedy the deficiencies of Brebner acknowledged by the Office.

Accordingly, without conceding the propriety of the combination, Applicants respectfully submit that the combination of Brebner and Cheng fails to teach all of the features of independent claim 18 and those claims depending directly or indirectly therefrom. Reconsideration of the rejection and allowance of independent claim 18 and those claims depending directly or indirectly therefrom are respectfully requested.

With respect to independent claim 26, the Office acknowledges that Brebner does not teach displaying a list of services that would enhance the hardware and software resources available on the remote device, and Cheng is relied upon to cure this deficiency. However, as discussed above, Cheng is silent regarding the consideration of hardware resources. Further, Cheng teaches away from the transmission of information about the remote device from the remote device and, as discussed above, cannot be properly combined with Brebner.

Accordingly, without conceding the propriety of the combination, Applicants respectfully submit that the combination of Brebner and Cheng fails to teach all of the features of independent claim 26 and those claims depending directly or indirectly therefrom. Reconsideration of the rejection and allowance of independent claim 26 and those claims depending directly or indirectly therefrom are respectfully requested.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable to Brebner in view Cheng and further in view of U.S. Patent No. 6,167,567 to Chiles (“Chiles”). All rejections are respectfully traversed.

Applicants respectfully submit that Chiles fails to cure the deficiencies of Brebner and Cheng set forth above. Accordingly, without conceding the propriety of the combination, Applicants respectfully submit that the combination of Brebner, Cheng, and Chiles fails to teach all of the features of claim 20. Reconsideration of the rejection and allowance of claim 20 and those claims depending directly or indirectly therefrom are respectfully requested.

### **Conclusion**

Claims 1-29 are currently pending in the application. Applicants have fully responded to each and every objection and rejection in the Office action dated October 16, 2007, and believe that claims 1-29 are in a condition for allowance. Applicants therefore request that a timely Notice of Allowance be issued in this case.

Applicants believe no other fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 50-3199 as necessary.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney. If the Examiner believes any issues could be resolved via a telephone interview, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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